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Report of the Working Group on the Universal Periodic Review*

Tonga

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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1. The Kingdom of Tonga has reviewed the recommendations received during its Universal Periodic Review (UPR) on 19 January 2018 and provides the following responses. In summary, of the 110 recommendations received, 52 were noted in January and 58 recommendations required further consideration.

2. As with many small island developing states, Tonga continues to grapple with the ever-increasing threats of climate change that have recently brought an onslaught of more severe and more frequent natural disasters.

3. Following its second UPR in January 2018, Tonga was hit by a severe Category 4 Tropical Cyclone Gita, the strongest in its history. The cyclone destroyed almost 2,000 homes, damaged 85% of schools, caused the evacuation of over 4,500 people and left more than 80% of homes in Tonga without power.

4. The devastation caused by TC Gita meant that the Government's immediate priority, and already limited resources, were redirected towards the recovery and rebuilding of the country, which is anticipated to take years. This presented a challenge in the Governments domestic engagement processes in addressing the recommendations from the Working Group Report on its Third UPR.

5. It is under these circumstances that Tonga reviewed its recommendations. At this stage, Tonga takes note of all the 58 recommendations deferred from January and will continue to consider them further.

6. This addendum provides the Kingdom of Tonga's responses to the recommendations, which for clarity, are clustered below in thematic issues.

I. International treaties

7. Note:

94.1, 94.2, 94.3, 94.4, 94.5, 94.6, 94.7, 94.8, 94.9, 94.10, 94.11, 94.12, 94.13, 94.14, 94.15, 94.16, 94.17, 94.18, 94.19 94.20, 94.21, 94.22, 94.23, 94.24, 94.25, 94.26, 94.27, 94.28, 94.29, 94.30, 94.31, 94.32.

8. Tonga is committed to ensuring that it ratifies all core international human rights conventions to promote and protect the rights of its citizens. Tonga will consider acceding to the conventions, in accordance with its domestic processes.

9. Notwithstanding the fact that Tonga is not yet a member of these conventions, many of the underlying human rights principles enshrined in core human rights conventions, already form the basis for many Tongan laws.

10. With regards to recommendation 94.3, Tonga acceded to the Convention on the Rights of the Child on 6 November 1995.

11. In June 2017, His Majesty's Cabinet established a Committee comprised of relevant Ministries, Department and Agencies to consider the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to review relevant legislation. The Attorney General's Office and the Ministry of Police continue to take the lead in the assessment of Tonga's accession.

12. Tonga's position on CEDAW is stated in the interactive dialogue as recorded in the report of the Working Group on the UPR (para 11) (A/HRC/38/5).

13. However, with respect to recommendations 94.18 and 94.19, although Tonga has not yet ratified CEDAW, it is not in a position to lift is reservations at this time. Careful consideration needs to be taken into account following targeted and strategic consultations through revisiting its domestic treaty examination processes.

14. Tonga is considering ratification of the ILO Convention No. 182 (Recommendation 94.28). The Cabinet appointed Tonga National Tripartite Consultation Committee (TNCCC) has been mandated with undertaking necessary measures towards the ratification of two ILO Conventions this year, one of which is Convention No. 182. These efforts

reflect Tonga's commitment to protecting children, including from the worst forms of labour. These are inline with our CRC obligations.

15. Since becoming a member of the ILO in 2016, the TNCCC together with the Ministry of Commerce, Consumer, Trade, Innovation and Labour, have prioritised the domestic treaty examination process for the ratification of Convention No. 182. This includes the completion of a legal review by the Attorney General's Office and the engagement of a consultant to translate the Conventions. Stakeholder consultation on the ratification of Convention No.182 is scheduled to take place within the coming weeks before undertaking the constitutional process of ratification under clause 39 of Tonga's constitution.

16. Due to limited capacity, Tonga's ratification of all other ILO conventions is delayed (Recommendation 94.29) before ratification, Tonga wishes to ensure that it will have the capacity to implement the core ILO conventions effectively so they become meaningful tools for development. Moreover, it will need significant technical assistance in order to do so.

II. National human rights institution

17. Note:

94.33; 94.34; 94.35.

18. Tonga does not have the necessary resources at this point to facilitate a national human rights institution in accordance with the Paris Principles. The establishment of a national human rights institution continues to be a challenge for Tonga given its limited financial and human resources.

19. However, the functions of Ombudsman's Office operate within the standards of the Paris Principles providing an important, impartial and effective complaints resolution mechanism. It also works to promote best practices in public administration providing guidance and advice in order to ensure people are treated fairly.

20. The Ombudsman's Office continues to actively conduct outreach programmes to all of Tonga's major island groups to raise public awareness.

III. Sexual equality and discrimination

21. Note:

94.36; 94.37; 94.38; 94.39; 94.40; 94.41; 94.42; 94.43, 94.44 94.45; 94.46, 94.47.

22. The main recommendations under this theme were to: eliminate all discriminatory treatment related to sexual orientation or gender identity, and the decriminalising of same-sex consensual sex.

23. Tonga has no national policies or regulation which condone discrimination against sexual orientation and gender identity.

24. The Government continues to support the work of the 'Tonga Leiti Association' (TLA) which advocates for the rights of people with different sexual orientation or gender identity and celebrates their contribution to Tongan society in entertainment, sport and business.

25. Through government grants, the TLA has received assistance for the refurbishment of their office quarters and the provision of a vehicle to help improve their public awareness and advocacy outreach.

26. The decriminalisation of consensual sex between same sex adults is an issue that Tonga still wishes to consider further. It requires thorough, robust and comprehensive dialogue against the backdrop of cultural sensitivities and conservative Christian values of the Tongan society.

IV. Capital punishment

27. Note:

94.48; 94.49; 94.50; 94.51; 94.52.

28. As indicated in Tonga's 2nd UPR, its position on the issue of capital punishment is that Tonga will continue to retain the death penalty as the ultimate criminal sanction under its criminal justice system for the crimes of murder and treason.

29. The Tongan Courts have already set the guiding policy that the death penalty will only be used, in the context of murder, "in the rarest of rare cases when the alternative option is unquestionably foreclosed". The death penalty is seen as a deterrent, only to be used in the 'rarest of rare cases', where violence has been at its most abhorrent, the victim at its most vulnerable, the impact universally and emotionally devastating and the alternative sentences do not qualify as appropriate or acceptable alternatives.

V. Legislative frameworks

30. Note:

94.53, 94.54, 94.55, 94.56, 94.57; 94.58.

31. Tonga wishes to note the various recommendations for domestic legislative reforms and emphasizes that, in accordance with its domestic laws and processes, and available resources, it will work towards ensuring human rights are featured in its legislative frameworks.

32. With regards to Recommendation 94. 58 to prioritise work to eliminate violence against women, the Family Protection Act Coordinator has been established to focus on the successful implementation of the Act. The 'Families Free of Violence' programme further focusses on responses to violence in supporting the implementation of the Family Protection Act 2013.

33. In close collaboration with its external partners, the Government of Tonga supports initiatives such as 'The UN Women' programmes on the prevention of violence against women. The Australian Government's 'Pacific Women Shaping Pacific Development' programme has provided specific resources to assist with the implementation of the Family Protection Act 2013, as well as the Revised National Policy on Gender and Development (RNPGAD) 2014-2018. The current review of RNPGAD is scheduled for September 2018.

34. The Government of Tonga further commits, in the Revised National Policy on Gender and Development, under 'Outcome 2: Equitable access to economic assets and employment', to enable women to achieve increased access to income generating business and employment opportunities; have access to resources, markets and jobs; and access to increased incomes, assets and life choices.

35. The Government of Tonga is also committed to increasing women's participation in labour mobility schemes through the development of a 'Women's Strategy for Labour Mobility'.

VI. Conclusion

36. Tonga again wishes to record its appreciation for this opportunity, to the Human Rights Council, the Working Group and the Troika of States of Angola, Slovakia and the United Arab Emirates, in considering Tonga's third universal periodic report, and also to Member States, Observers and Non-Government Organisations for the support and constructive feedback. Tonga would also like to acknowledge, with appreciation, the UN Voluntary Trust Fund which has enabled its participation in the 38th Session of the HRC and its presentation of Tonga's formal response to the recommendations it received during its 3rd UPR.